

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
FEBRUARY 10, 2021**

**CALL TO ORDER
6:00 PM**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. in the 2nd Floor Conference Room of the South Campus Building, 40 11th Street West, Suite 200 Kalispell, MT 59901. Board members present were Sandra Nogal, Greg Stevens, Mike Horn, Jeff Larsen, Verdell Jackson, and Buck Breckenridge. Kevin Lake and Ron Schlegel had excused absences. Elliot Adams arrived at 6:01 pm. Erin Appert, Laura Mooney, Donna Valade, Erik Mack, and Mark Mussman represented the Flathead County Planning & Zoning Office.

There were approximately 48 members of the public in attendance, plus an unknown number of people in attendance via Zoom.

**APPROVAL OF
MEETING
MINUTES
6:01 PM**

Breckenridge made a motion, seconded by Stevens, to approve the January 13, 2021 meeting minutes.

Motion passed unanimously on a 6-0 roll call vote.

**PUBLIC
COMMENT
(Public matters that
are within the
jurisdiction of the
Board 2-3-103
M.C.A)
6:01 PM**

None

**DISCLOSURE OF
ANY CONFLICT
OF INTERESTS
6:02 PM**

Breckenridge needed to recuse himself from FZC-20-18 because he had worked on the property in the past.

**DUNKIN AND
WILSON
ZONE CHANGE
(FZC-20-16)
6:03 PM**

A zone change request from David C. Dunkin and Mary Ann Wilson, for property within the Rural Whitefish Zoning District. The proposal would change the zoning on property located on Morrison Road in Whitefish, MT from SAG-10 (Suburban Agricultural) to R-2.5 (Rural Residential). The total acreage involved in the request is approximately 5.66 acres.

**STAFF REPORT
6:03 PM**

Erin Appert reviewed staff report FZC-20-16 for the board.

**BOARD
QUESTIONS
6:04 PM**

None

**APPLICANT
PRESENTATION
6:04 PM**

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicants. He discussed the history of the property and zoning. He reviewed the proposal and said it fit into the neighborhood density. He addressed the concerns over access. They were proposing to create 1 additional tract and it would not be subdivided. If it was split, it would then need to go through Environmental Health and DEQ for water and wastewater review. He concurred with the staff report.

**BOARD
QUESTIONS
6:06 PM**

Stevens asked how wide the road was. Mulcahy estimated around 18'.

Larsen asked him to point out where the road would be, which Mulcahy reviewed on the map.

Larsen addressed that the fire department said it was 9% grade but a public comment said it was 18%. Mulcahy did not think it was 18% but was unsure of the exact percentage.

**AGENCY
COMMENTS
6:09 PM**

There were no agencies present to comment. Written comments received were reviewed in the staff report.

**PUBLIC
COMMENT
6:11 PM**

Kory Kohm, 2120 Snowghost Dr, spoke in opposition of the application. He was concerned it would set a precedent for the larger parcels around them to apply for similar changes. He was concerned about the safety of the road and additional traffic because of the steep grade.

Jeff Carlson, 2178 Snowghost Drive, spoke in opposition of the application. He was concerned about adding more traffic to the road. He said there were no services that would go up there when the roads were bad. He was also concerned about the precedence that would be set in the neighborhood. He wanted to keep the general concept of the neighborhood the same.

Nick Chickering, 2944 Snowghost Dr., spoke in opposition of the road. He was concerned about the fire safety and emergency access. The road was 15' wide and two pick up trucks would not be able to fit safely. He showed a video of him driving to demonstrate his concern. There were 14 homes that have to use that turn without any other alternative and they could not add any more to it. He reiterated that fire and safety was his biggest concern.

Kerry Eby, 2120 Snowghost Dr., spoke in opposition of the application. She agreed with what had previously been shared. She was also concerned that the quality of life would change with higher density. She expressed concern for

the wildlife in the neighborhood. She opposed the idea of subdividing so people could get what they wanted.

Reid Sabin, 858 Latigo Lane, spoke in opposition of the application. He was tasked with plowing Morrison Road. It was one of the steepest and most dangerous roads he had witnessed. He was concerned about the approach, which was also extremely steep. He witnessed people leaving Morrison Road and sliding onto the county road. He was concerned about the traffic impact by adding more people.

Martin Beale, 278 Cedar Hill Road, spoke in opposition of the application. He addressed that the 2.5 acres did not fit the current zoning and there were some adjacent properties that were much larger. He was concerned about the safety of the traffic impact on that road. He reiterated that the road was very dangerous.

Tanner Kuhl, 255 Cedar Hill Road, spoke in opposition of the application. He agreed with what had already been said. There were already 6 developable lots, without additional subdividing. He was also concerned about the wild urban land wildland interface. The area was steep, heavily forested, and was the last place that should be subdivided. It was indefensible to wildland fire.

Susan Ruffatto, 206 Morrison Road, spoke in opposition of the application. She bought the property with the careful consideration of what it was zoned and what was in the neighborhood. She was concerned about the road safety. She felt it was unfair to the rest of the people who had bought into specific zoning as well.

Chris Rankin, 75 Morrison Rd., spoke in opposition of the application. He agreed with the concerns that had been shared. They had taken serious consideration of the character and properties surrounding when they bought into the neighborhood. He was concerned that a wealthy person, from out of state, had come to divide an investment property during a time where people are wanting to grab land in Montana. He did not feel that this should even be entertained.

Bill Kobrin, 238 Morrison Rd., spoke in opposition of the application. He was in agreement with what had been shared. He addressed finding of fact #2 that Morrison Rd. did not meet the standards of emergency access. He explained some public agencies would not even service the houses on that road due to the dangerous road. He was concerned about the safety of the road and believed the road had already reached the tipping point of safety with the current residents.

Tom Baffa, 174 Morrison Road, spoke in opposition of the application. His property was below the roads and has had at least 6 vehicles that did not make

the corner and would end up in his yard. They moved into the area knowing what the zoning was and made their decision based on that and felt it was unfair to allow the changes. He said that it was discouraging for someone to try and capitalize on the neighborhood that did not live in the area.

Zach Kearns, 215 Morrison Road, spoke in opposition of the application. He agreed with what had been shared previously. He pointed out that there were lots that were 2.5 acres in the area but everything else above Morrison Rd. was zoned SAG-10, which were also accessed through Morrison Rd. and past the S-curve. He felt they were at the tipping point for a dangerous situation on such a steep road without enough room for two cars.

**APPLICANT
REBUTTAL
6:46 PM**

None

**STAFF
REBUTTAL
6:46 PM**

None

**BOARD
QUESTIONS
6:46 PM**

Stevens asked Chickering when he had measured the road. Chickering said several weeks ago. Pavement was showing and was not snow covered as it was in the video he presented. Stevens asked if the measurement would be the same in the winter time and if he had measured snow berm to snow berm. Chickering said he had measured the whole road while it was bare.

Stevens asked Mulcahy about Morrison Road being a private road and if it had a 60' easement. Mulcahy said that was correct.

Adams asked if the road was privately maintained and who maintained it. Someone from the audience said there was road maintenance.

Stevens asked Sabin what kind of tires he used to drive the plow up the road. Sabin said it wasn't so much about the tires but the tire chains. Sabin said there was absolutely no shoulder, considering the steepness of the road. He reiterated that he did everything he could to maintain. There is a road agreement with the road association. He had expressed interest in not wanting to continue but they have yet to find someone willing to do it.

Jackson asked Chickering why they had not improved the road if there was a 60' right of way. Chickering said that people's yards were right up against the road. They would have to give up their yard in order to widen the road. He reiterated that there was not one neighbor who wanted this because of the safety

BOARD BREAK

6:53 PM

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-20-16)**

7:03 PM

Stevens made a motion, seconded by Jackson, to adopt staff report FZC-20-16 as findings of fact.

**BOARD
DISCUSSION**

7:04 PM

Stevens wanted to make everyone aware that it was not a subdivision, it was a zone change. He could vote for the zone change and vote against a subdivision, or place conditions on the subdivision (for example that they change the grade of the road or the width of the road) for approval. He discussed the procedure for subdivision approval. He said, if neighbors had built within the 60' [the road] easement, that was on them.

Stevens addressed Findings of Fact #4 and thought the board may want to discuss it. He also addressed Findings of Fact #6. His concern was health and safety. There were safety issues on Morrison Rd., given the width and slope, even with the addition of one more lot. There had been good persuasive testimony this evening. He believed the road was not adequate for safe increase in traffic. He continued to discuss protocol and the findings of facts.

Nogal was prepared to amend the findings.

**MOTION TO
AMEND F.O.F. #2**

7:11 PM

Nogal made a motion, seconded by Adam, to amend Finding of Fact #2 to state:

The proposed zoning map amendment would *not* secure safety from fire and other dangers. ~~because the property is located approximately 5.2 miles from the nearest fire station, fire hazards resulting from the property's location in the WUI could be mitigated if the property is further subdivided,~~ the property is accessed from Morrison Road which *cannot easily* accommodate emergency vehicles, ~~and the property is not located within the Special Flood Hazard Area.~~

**BOARD
DISCUSSION**

7:11 PM

Stevens felt the amendment was a reasonable finding, given the testimony he heard concerning the slope and the width.

Larsen agreed there had been persuasive testimony, backed by substance and not just that the neighbors did not want it. He looked at the statutory criteria when it came to a zone change. There had been substantial testimony that questioned if the transportation system was adequate and if it was safe for fire and emergency vehicles. The applicants had the burden to provide the proof that it met the criteria.

Jackson felt that the video was persuasive testimony.

**ROLL CALL TO
AMEND F.O.F. #2
7:13 PM**

Motion Passed unanimously on a roll call vote.

**MOTION TO
AMEND F.O.F. #3
7:14 PM**

Nogal made a motion, seconded by Stevens, to amend Finding of Fact #3 to state:

The proposed zoning amendment would ~~not~~ have a negative impact on public health, safety and general welfare because *of the agency comment by the Whitefish Fire Department the property is served by the Whitefish Fire Department and the Flathead County Sheriff's Office and future development would be similar or compatible to uses already existing in the area.*

**BOARD
DISCUSSION
7:14 PM**

The board discussed the language of what the amendment should be.

**ROLL CALL TO
AMEND F.O.F. #3
7:16 PM**

Motion passed unanimously on a roll call vote.

**BOARD
DISCUSSION
7:17 PM**

Stevens discussed the protocol that they had to go through in order to develop a legal and defensible finding of fact, whether they approve or deny, in case it were to go to court.

**MOTION TO
AMEND F.O.F. #4
7:17 PM**

Nogal made a motion, seconded by Larsen, to amend Finding of Fact #4 to state:

The proposed zoning map amendment would ~~not~~ facilitate the adequate provision of transportation *based on public testimony regarding safety, road width, and road grade because access to the subject property currently exists via Morrison Road and the proposal has the potential to generate an additional 10 average daily trips through future subdivision of the property.*

**BOARD
DISCUSSION
7:19 PM**

None

**ROLL CALL TO
AMEND F.O.F. #4
7:19 PM**

Motion passed unanimously on a roll call vote.

**BOARD
DISCUSSION
7:19 PM**

Nogal questioned if they needed to amend Finding of Fact #7 to stay consistent. Larsen did not believe the amendment was needed.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-20-16)
7:20 PM**

Motion passed on a 6-1 roll call vote. Horn dissented.

**MAIN MOTION
TO RECOMMEND
DENIAL
(FZC-20-16)
7:21 PM**

Stevens made a motion, seconded by Jackson, to forward a recommendation of denial of FZC-20-16 to the Board of County Commissioners.

**BOARD
DISCUSSION
7:21 PM**

None

**ROLL CALL TO
RECOMMEND
DENIAL
(FZC-20-16)
7:21 PM**

Motion passed unanimously on a roll call vote.

**OSTER
ZONE CHANGE
(FZC-20-17)
7:22 PM**

A zone change request from Tara Oster, for property within the Holt Zoning District. The proposal would change the zoning on property located at 307 Chapman Hill Road, Bigfork, MT from R-3 (One-Family Residential) to R-1 (Suburban Residential). The total acreage involved in the request is approximately 1 acre.

**STAFF REPORT
7:24 PM**

Donna Valade reviewed staff report FZC-20-17 for the board.

**BOARD
QUESTIONS
7:27 PM**

Stevens asked if it was adjacent to SAG-10 zoning. Staff and board discussed the surrounding zoning.

**APPLICANT
PRESENTATION
7:28 PM**

Tara Oster, 307 Chapman Hill Rd., was the applicant and presented the reasons why the property met the requirements for R-1 zoning designation as well as how it complied with the Bigfork Neighborhood Plan. She had no desire to subdivide the property or be annexed into a public water and sewer system. She pointed out similar zoning in the area. She also reviewed the timeline of the application to resolve the current zoning violation of keeping livestock.

She addressed some of the complaints, specifically the animals that she had on the property, and how she tried to come into compliance.

**BOARD
QUESTIONS
7:33 PM**

None

**AGENCY
COMMENTS
7:33 PM**

There were no agencies present to comment. Written comments received were reviewed in the staff report.

**PUBLIC
COMMENT
7:34 PM**

Joel Goldberg, 105 Lakeview Court, spoke in opposition of the application. He was the president of the Bigfork Landing HOA and Ponderosa Boat Club Association HOA. They were concerned about the smell and flies associated with the keeping of the horse and donkey.

Vince Taylor, 1171 Boat Club Drive, spoke in opposition of the application. He was also a board member of the HOA. He discussed the agricultural properties of the area, being hayfields with no animals. He was concerned that the animals would be contained on 1/3 of an acre. He discussed the concern of the smell from the manure and the flies. He was upset that this was the 3rd time it had been before the board for a zone change. The HOA was concerned that the applicant was in zoning violation by having a horse and donkey on the property. They felt the remedy was to remove the animals and did not realize there was a variance that she could keep her animals on the property until [the zone change] was either approved or not approved. He read his letter, which he had presented to BLUAC, and submitted to the Planning Office.

Leann Siderius, 1525 Steel Bridge Rd., spoke in support of the application. She discussed the SAG-10 property that was in the vicinity. She discussed that there were no restrictions on the animals. The R-3 parcel, being changed to R-1, would comply with the similar zoning around it. She said the complaint was about the animals ruining property values but neighboring properties have sold at great value (selling above asking price). She said there were neighbors that didn't mind the horse and donkey. The two real estate sales that had occurred since the applicant had moved in, attested to the fact it had not affected property values. She also spoke to the applicant's care for the animals.

Megan Warren, 185 Walker Creek Lane, spoke in support of the application. She discussed the concern over diminishing property values in the area. She discussed the data of homes that had been sold nearby, reiterating that homes had been selling at high value and had not been affected by the horse and donkey.

**APPLICANT
REBUTTAL
7:52 PM**

Oster stated it was unfortunate the conversation centered on the animals and not how the property fit the R-1 zoning designation. She reiterated there were 19 lots, which bordered SAG-10, where livestock was a permitted use. Half of the property was currently fenced, and if the zone change was approved, she would then expand the fencing and make improvements on the property. She addressed the concern over flies and manure and explained that she had kept horses for 20 years and had equipment to drag the field. This controlled the smell and flies. She explained the livestock also had a mineral salt block, a type of supplement which was fed in the spring, summer and fall, which killed the larva in their digestive system and stopped any hatching in the manure. The field had not been dragged recently and she explained that best management practice, to make sure the best reduction for contamination, did not recommend dragging during wet months or when the ground was frozen.

**STAFF
REBUTTAL
7:52 PM**

None

**BOARD
QUESTIONS
7:53 PM**

Adams asked the applicant if she was a member of the HOA. She responded that property bordered the HOA but she was not a part of it.

The board and staff discussed the density of livestock permitted between R-1 and SAG-10, what type of livestock were allowed.

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-20-17)
7:56 PM**

Stevens made a motion, seconded by Jackson, to adopt staff report FZC-20-17 as findings of fact.

**BOARD
DISCUSSION
7:56 PM**

The board briefly discussed if they would like to adopt the amended findings of fact #10 and #11 as proposed by BLUAC.

Larsen did not believe it was spot zoning, given the reason that there would have to be a use that was completely different than the surrounding uses. This was a residential area, with a residential use. He discussed similar uses of the adjacent zoning and discussed if the change met the statutory criteria for a zone change.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-20-17)
7:58 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL
(FZC-20-17)
7:58 PM**

Adams made a motion, seconded by Jackson, to recommend approval of FZC-20-17 to the Board of County Commissioners.

**BOARD
DISCUSSION
7:59 PM**

Adams referred to public comment which said the applicant should have done their due diligence when they were buying next to residential. He stated it could go the other way as well; that the people who purchased next to agriculturally zoned land should expect the possibility of agricultural uses, including livestock.

Stevens said the objections he had heard, concerning property values, he found to be speculative. There had been testimony with data that had proven the property values had not been affected. Stevens also addressed the concerns over horses, as he had horses himself. He did not think the fears would materialize.

Larsen understood the comments about smell and flies, however, that was not what the zone change considered. The property was a good transition from the SAG and PUDs.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-20-17)
8:04 PM**

Motion passed unanimously on a roll call vote.

**BOARD BREAK
8:05 PM**

**TRONSTAD-
CHURCH, LLC
ZONE CHANGE
(FZC-20-18)
8:09 PM**

A zone change request from Sands Surveying, Inc. on behalf of Tronstad-Church, LLC, for property within the Highway 93 North Zoning District. The proposal would change the zoning on property located at 220 Highland Drive, Kalispell, MT from SAG-5 (Suburban Agricultural) to R-2.5 (Rural Residential). The total acreage involved in the request is approximately 110.68 acres.

**STAFF REPORT
8:10 PM**

Laura Mooney reviewed staff report FZC-20-18 for the board.

**BOARD
QUESTIONS
8:12 PM**

None

Breckenridge recused himself, as discussed earlier.

**APPLICANT
PRESENTATION
8:12 PM**

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicants. He discussed the surrounding zoning and the history of the property. They were not proposing a subdivision at this time, just the zone change.

Mike Meyers, 316 Liberty Street, was one of the owners of the property. They wanted to do something nice with the property and this was the first step of finding out what that could be. They had visited with most of the neighbors and majority of the concerns were about being annexed into the city or their water supply. He discussed the corridor of HWY 93 and discussed, at length, that zoning. This 110 acres would be a good buffer from the business to agricultural areas. Currently the site was used for agricultural. Initial studies had shown that any future subdivision would be much less water usage than what was currently being used for agricultural.

**BOARD
QUESTIONS
8:20 PM**

None

**AGENCY
COMMENTS
8:20 PM**

There were no agencies present to comment. Written comments received were reviewed in the staff report.

**PUBLIC
COMMENT
8:21 PM**

Daniel Munzing, 213 Tronstad Rd., spoke in opposition of the application. He had concerns and recommendations. He was concerned over the negative traffic impact. There were blind spots on the road that needed to be addressed. He was concerned for traffic impact on pedestrian and kids at bus stops. He was concerned about water supply. He was concerned about being forced into annexation into City of Kalispell. He was concerned about higher density. He was concerned about the potential decrease of property values. He was concerned about the approach from Hwy 93 to Tronstad and suggested they have a turn lane. He was concerned that there would be good CCandRs in place. He also requested that they have a walking trail, which would eliminate risks for pedestrians. He felt if these issues could be addressed, this would be the best zone change that they could have hoped for.

Danielle Tuhy, 280 Highland Dr., spoke in opposition of the application. She was concerned about the access. She was concerned about turning into something residential. She expressed frustration that the agriculture properties had not been contacted. She felt it was deceptive that the main person involved did not live here year-round and did not have the "local thought process". She was concerned that a precedent would be set. She did not have faith that they would uphold what they were saying tonight and felt that everything should be planned out already. Traffic and safety of the children was the main concern.

Ken Dauenhauer, 161 Highland Dr., spoke in opposition of the application. He discussed the history of the area. He discussed issues with wells and concerns that the contents would be lowered. He was concerned of the traffic impact and the kids that were on the road. He felt there was no reason why a property like this should be pushed into their backyard.

Ed Bucher, 3552 Autumn Ct., spoke in opposition of the application. He did not want to be annexed into the city. He did not want to pay higher taxes. He discussed water issues that they had in the area and was concerned about the impact a higher density would have on it. He wanted things left alone as they were.

John Schwarz, 3248 Farm to Market Rd., spoke in support of the application. He was asked to be here by the applicant. He discussed the urban corridor along Highway 93 and the transition that needed to happen. He addressed the concerns over the water; that the water consumption for residential consumption would be a fraction of what it was now for agriculture. The numbers reflected the water consumption would be about $\frac{1}{4}$ of the agricultural use that was now.

Cassie Muller, 45 Tronstad Dr., questioned the process of rezoning and if they could rezone in steps vs. variance. Larsen explained it had to fit the same criteria. She wondered if it would make it easier for them to go smaller down the line. Larsen said he didn't think that it would. She asked if the City of Kalispell wanted to annex and what that would look like. Mussman addressed that saying that the only way the city could force it to be annexed was if the property was completely surrounded by the city. The developer would have to request to be annexed into something like this. It was his understanding that the city was not pursuing forcing annexation.

Ryan Sanford, 3553 Autumn Ct., spoke in opposition of the application. He wondered why they were pursuing rezoning and why 5 acres was not good enough. He was concerned that they could easily continue to step down to smaller zoning.

Gordan Green, 211 Highland Dr., spoke in opposition of the application. One of his biggest concerns was the access off of Highland Drive and how that would impact their property since it was directly across from the easement. He was concerned over the light pollution.

Colby Shaw, 89 Tronstad Dr., spoke in opposition of the application. His biggest concern was being annexed into the city limits. He wondered if it was easier to get annexed in if it was an R-2. Larsen explained that the city did not care about county zoning.

**APPLICANT
REBUTTAL
8:58 PM**

Mulcahy reiterated that they were proposing transitional zoning. He felt there was a lack of understanding of how development worked and explained the process in great detail. Many of the concerns would be addressed at a subdivision review. Generally speaking, a zone change would normally come first so that they know what they were looking at. Many of the concerns would be addressed. Zoning was a small part of the development process. He then explained subdivision review, and meeting the conditions, in great detail. His clients liked the estate density and, other than that, they did not have preconceived notions. This was part of the baby steps of the process.

**STAFF
REBUTTAL
9:02 PM**

None

**BOARD
QUESTIONS
9:03 PM**

Nogal asked Tuhy if there was anything else that she wanted to add. She approached the podium and pointed out the surrounding agriculture properties in the vicinity.

Larsen asked that the applicant address the concern over being annexed into the city and to clarify that it was not something that the applicants wanted to pursue. Mulcahy said that it was his understanding.

Sanford had asked why they wanted R-2.5 and did not want to stay with the SAG-5, Larsen ask that be addressed. Mulcahy said it was about the density. He discussed the costs of developing and adding density to absorb some of those costs. The applicants felt that the 2.5 acres estates, within the urban density and agricultural density, was a good fit. They discussed this at length.

Adams asked how many lots would be able to be fit after the development. Mulcahy said it really depended on the design.

Jackson said he had 12 acres and a lot of people could not take care of it. They lived on an acre and had 11 acres of weeds. He felt that [one] could always purchase more property if that was what they desired.

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-20-18)
9:10 PM**

Stevens made a motion, seconded by Jackson, to adopt staff report FZC-20-18 as findings of fact.

**BOARD
DISCUSSION
9:11 PM**

Stevens felt the staff had done a good job. He explained that people were unfamiliar with the development. A lot of the questions and concerns were not typically addressed at the zone change level. A lot of those questions/concerns were addressed, at the subdivision review level, by mitigation with conditions. It was not that they were avoiding the concerns, it was that they were not appropriate for this part of the process.

Larsen acknowledged that they had appropriate concerns about the roads, but the board could not put conditions on a zone change. They occurred during the subdivision review. At that level, they can also put conditions for agricultural buffers or a bike/pedestrian path. That was when the conditions come into play.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-20-18)
9:12 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL
(FZC-20-18)
9:13 PM**

Stevens made a motion, seconded by Jackson, to recommend approval of FZC-20-18 to the Board of County Commissioners.

**BOARD
DISCUSSION
9:13 PM**

Stevens understood the concerns and fears of proposed development. He did not like change and most people had a fear of change. He discussed some of the “junk” 5 acre subdivisions in the county. They could leave it at 5 acres. A 2.5 acre subdivision was going to bring in some high end subdivisions. The 2.5 acre parcels have the potential for a lot nicer development than what a SAG-5 or an R-1 would bring. The fear that he understood was annexation and he discussed this in detail. He felt this zoning designation was preferable to the 5s, depending on how it was developed, or that they might be more protected from annexation with the R-2.5 zoning designation.

Larsen discussed previous subdivisions that had been before the board and the history of development in the County. He discussed 5 acre “weed patches”. He felt the subdivision would protect them from having the city out there.

Jackson understood wanting to live in a rural area without neighbors. He discussed his personal experience of living on 17 acres and the big houses that were starting to creep down the road.

Nogal felt that Tronstad was the line. She had heard that the creep “was coming and they had to live with it”. She questioned if they had to live with it. She saw this as the last rural buffer between the cities. She was not ok with continuing to allow the creep. It did not sound like property rights, to her, that they allow property developers to come in and not protect the people who lived there. She discussed previous files, including Baker 80, and said she was tired of developers not wanting to pony up and pay for the road. She wondered if 5 acres would really be that bad. She was going to vote no. She was holding out for large parcels in this area and was trying to balance property rights with those who already live on large parcels.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-20-18)
9:31 PM**

Motion passed on a 5-1 roll call vote. Nogal dissented.

**DAY FAMILY
TRUST ZONE
CHANGE
(FZC-20-19)
9:37 PM**

A zone change request from Day Family Trust for property within the Echo Lake Zoning District. The proposal would change the zoning on property located at 465 Echo Bay Trail, Bigfork, MT from *AG-40 (Agricultural)* to *SAG-5 (Suburban Agricultural)*. The total acreage involved is approximately 62.13 acres.

**STAFF REPORT
9:38 PM**

Erik Mack reviewed staff report FZC-20-19 for the board.

**BOARD
QUESTIONS
9:42 PM**

None

**APPLICANT
PRESENTATION
9:42 PM**

Rowland Day, 465 Echo Bay Trail, was the applicant. He started off with saying that he was a Montana resident who lived on the property as a primary residence. He explained the history of the property and the intent in order to grant property to his children. This was the process the county required. They did not want to have 12 other neighbors,

**BOARD
QUESTIONS
9:45 PM**

None

**AGENCY
COMMENTS
9:45 PM**

There were no agencies present to comment. Written comments received were reviewed in the staff report.

**PUBLIC
COMMENT
9:46 PM**

Bill Dakin, 477 E. Village Dr., spoke in opposition of the application. He felt the zoning was drastic and would set a precedent that would haunt [the area] for years to come. He was concerned that it would have ripple effects to the agricultural zone. He discussed, at great length, the impact on development at Echo Lake. He discussed zone changes which had occurred in the area and had set a precedent of being contagious and irreversible.

Wayne Grilley, 1399 Firemans Island Rd., spoke in opposition of the application. He read his letter which he had submitted. His concern were safety, access, and water quality and the density, which would only make the

problems worse. He was concerned about the erosion from lake recreation. He was concerned about environmental impacts on the lake from increasing density.

Linda Thompson-Smith, 1405 Fireman's Island Rd., spoke in opposition of the application. She was concerned about fire safety. She described the roads in the area and described the lack of emergency access and route plan.

Mike Glain, 580 W. Village Dr., spoke in opposition of the application. He was concerned about the water quality and high powered prop wash. He discussed the potential negative impact of water quality in great detail. He discussed the history and current water quality of Echo Lake. He was also concerned about the neighboring Peterson and Abbot Lakes.

John Wachsmuth, 1098 Echo Lake Rd., spoke in opposition of the application. He discussed the three lakes near the proposed subdivision. They were warm water lakes and that determined how much they could handle. He spoke at great length to the structure of the lakes. He was also concerned about the species in the area.

Mark Suppelsa, 509 E Village Dr., spoke in opposition of the application. He was a part of a homeowners group who volunteer to assist with Fish, Wildlife, and Parks. They worked hard to help protect the docks. They took turns on the public dock to observe the boats coming in. He discussed the difficulties of only being able to visually inspect the boats. He discussed the boat traffic. He said giving the green light for 12 new home sites, or even just the 5, would be bad land use policy and the water couldn't take that.

Charlotte Streit, 1409 Firemans Island Rd., spoke in opposition of the application. She was concerned about the erosion of the lake and discussed the reasoning for this at great length.

Cly Evans, 1409 Fireman's Island Rd., spoke in opposition of the application. He stressed that protecting the lake was not just for the land owners but also for the public who enjoyed Echo Lake. He was also concerned about protecting the safe haven for the painted turtles in the lake.

Julie Miller, 1135 Blackies Bay Rd., spoke in opposition of the application. She was concerned about the site postings and not being notified.

Wade Schott, 770 Echo Lake Rd., spoke in opposition of the application. He discussed the history and development around the lake. He said that it was busy and congested, like Coney Island. He was concerned about the impact of higher density.

Susan Hutz, 1898 LaBrant Rd., spoke in opposition of the application. She said that the AG-40 zoning was adopted in order to protect the lakes and a precedent had been set prior to the buyer purchasing the property. She asked why this property owner should receive special treatment.

Phillip Chaplin, Lot 2 on Fireman Island Rd., had a cabin on the property but had never put an address on it. He discussed the history of the lake. He felt it was opening up a can of worms that shouldn't be opened.

Karen Coler, 994 Echo Lake Rd., spoke in opposition of the application. She agreed with the concerns brought up. She was concerned about the increasing boat traffic.

Kevin Cummings, 205 Echo Chalet Dr., spoke in opposition of the application. The primary residence on the subject property had been for sale for most of 10 years.

**APPLICANT
REBUTTAL
10:23 PM**

The applicant said the property was not for sale. It had been for sale and they had taken it off. It was their primary residence. He agreed with the concern over the water issues. His property, and the other properties, were not the issue. It was the public boat launch; it was backed up and busy with all kinds of boats. He discussed the problems the locals had with the boat traffic. He was happy to do anything to help limit the boats and/or type of boats. He concurred that it was a problem and he was all for stopping it.

He felt that, as homeowners on the lake, they should get together and mediate some of these concerns. He reiterated that he did not want density on the lake. He only wanted to give some of his land to his children. The area he lived in was not dense. This was the only recourse that he had to try and move property and make it available to the children.

**STAFF
REBUTTAL
10:27 PM**

Mack addressed the posting concerns and criteria which had to be met when posting. Some of the mentioned areas that were missed were within different zoning districts. He discussed protocol and criteria at length.

Mack also addressed the concern over access. There had vaguely been discussion about there being access from the north and he didn't know if the applicant wanted to address that.

Tamara Tanberg said there was a legal easement that went to the north and south.

**BOARD
QUESTIONS
10:30 PM**

Breckenridge wondered what the size of the parcels were near Peterson Lake. Mack replied they varied in size, but were rather large, and showed the zoning district on the map. Breckenridge wondered if it would be a significant change if [the larger parcels] were to ask for a zone change as well. Mack pointed to

the staff report that addressed the surrounding zoning.

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-20-19)
10:32 PM**

Stevens made a motion, seconded by Jackson, to adopt staff report FZC-20-19 as findings of fact.

**BOARD
DISCUSSION
10:32 PM**

The board discussed the amendments suggested by BLUAC. Stevens wondered if they should just forward the addendum to the County Commissioners. Stevens didn't agree with all the language. He would not be able to adopt the alternative but did not know why he couldn't forward it.

The board went through the recommendations.

**MOTION TO
ADOPT F.O.F. AS
ADOPTED BY
BLUAC
10:38 PM**

Larsen motioned, seconded by Breckenridge, to adopt Findings of Fact as adopted by BLUAC.

**BOARD
DISCUSSION
10:38 PM**

None

**ROLL CALL TO
ADOPT F.O.F. AS
ADOPTED BY
BLUACE
10:38 PM**

Motion passed unanimously on a roll call vote.

**BOARD
DISCUSSION
10:39 PM**

None

**ROLL CALL TO
ADOPT F.O.F. AS
AMENDED
(FZC-20-19)
10:39 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL
(FZC-20-19)
10:40 PM**

Nogal made a motion, seconded by Adams, to recommend approval of FZC-20-19 to the Board of County Commissioners.

**BOARD
DISCUSSION
10:40 PM**

Nogal felt they were all in a difficult position. She understood the lake had issues but it sounded more like a public access issue. She agreed that they should work together to solve the problem.

Breckenridge also felt it was a public access issue. He discussed possible future development and thought that was semi-protected by what was developed there. He felt that the issue of the lake was significant but not enough to deny.

Stevens agreed that a lot of the problems on the lake were lake management problems that were not going to be exacerbated, by any significant extent, if the applicant's 5 kids got a place on the lake. He questioned why the applicant did not use a SAG-10, which would still enable him to gift land to his kids. Stevens said the problem with AG-40 zones were that they were a nightmare; you have to own 160 acres to ever split a piece off. It tied up land owners. A lot of the land regulations were applied to assure that the "haves" remain the "haves" and the "have-nots" remain "have-nots". He questioned point of AG-40s or AG-80s; if they were ag they were ag. It did not work well in the case of the applicant. There were a lot of problems with fire safety and other issues.

Larsen noticed that BLUAC was trying to pass 10 acres but Larsen wondered if the board could change an application. Mack said they could recommend that they change it. The Commissioners have amended proposals in the past.

Stevens said that would address the issues that Day talked about and at the same time would not blast it all the way down to 5 acres. Stevens stated the lake had problems but the problems were from the people who already lived there.

Adams addressed the SAG-5 vs SAG-10, he didn't know what the reason was for the request but suggested there may be a plan that involved wanting to give his family some acreage and still have a large space for himself. If they went with 10 acres, the property owner would be stuck giving his children 10 acres each, and giving away 50 acres, leaving 12 acres for himself.

Stevens said 10 acres in the forest hid a lot. There could be separation depending on the configuration; 10 acres of wooded land was a lot of separation vs. 10 acres of flat land.

Larsen understood the concerns over the lake. He said BLUAC had struggled with the 10 acre recommendation. He was open to a recommendation for 10 acres. He did not want to see the lake get degraded. He was struggling with not being able to put conditions on a zone change. He was not in favor of the 5 acres but might be able to recommend the 10 acres.

Stevens asked what the applicant thought. The applicant said that not all of the land is useable because of the topography and some of the land flooded easily. He discussed this in great detail.

Breckenridge asked if they could cluster in a SAG-10. Staff replied that it was a permissible use. Mussman explained clustering in detail. It would work but you would have to go through the subdivision process.

Larsen said he was struggling with the density and could not support the 5.

Breckenridge felt that the applicant has shared his intent and 10 acres was in line with that. Along with the clustering provision, that was a wise compromise.

Larsen felt the 5 acre density was high.

Adams understood Larsen's concern with the high density but pointed out there were many lots around the lake that are well under the 5 acres. He reiterated that the applicant said that much of his property was unbuildable.

Stevens pointed out that most of the zoning district was SAG-5.

**MOTION TO
RECOMMEND
SAG-10 ZONING
10:59 PM**

Larsen motioned, seconded by Stevens, to forward a recommendation of SAG-10 zoning to The County Commissioners

**BOARD
DISCUSSION
10:59 PM**

Larsen was ultimately concerned about the water quality. He was trying to find balance, although he acknowledged that nobody was going to be happy. If it was zoned AG-40, in order to split that more, they would have to have at least 80 acres. He was willing to go with the SAG-10. He wished he could put conditions on it because he was concerned the type of septic systems going in. If it was subdivided, they would be able to put conditions on it. He was struggling. He would not vote for a 5 acres.

**ROLL CALL TO
RECOMMEND
SAG-10 ZONING
11:00 PM**

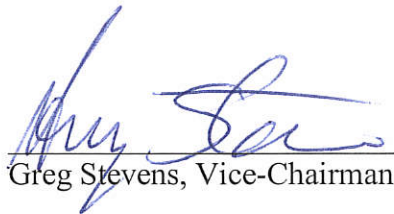
Motion passed on a 5-2 roll call vote. Adams and Horn dissented.

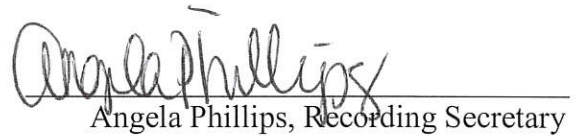
**OLD BUSINESS
11:02 PM**

None

NEW BUSINESS None
11:00 PM

ADJOURNMENT The meeting was adjourned on a motion by Nogal and Adams at
11:02 PM approximately 11:02 p.m. The next meeting will be held March 10, 2021.



Greg Stevens, Vice-Chairman

Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 03/10/21